

Application No. 10/589,459
AMENDMENT AFTER FINAL UNDER 37 C.F.R. § 1.116 dated June 9, 2011
Reply to Office Action of December 14, 2010
Attorney Docket 1410-67681-US

REMARKS

Claims 1-24, 26-35 and 52-67 are currently pending in the application. Claims 36-51 were previously canceled. The Examiner's indication that claims 25-35 and 52-67 contain allowable subject matter is noted with appreciation. Claims 1 has been amended to incorporate the allowable subject matter of claim 25 and claim 52 has been rewritten in independent form. Claim 25 is canceled herein. Applicants respectfully request reconsideration and allowance of the claims of this application in light of the remarks presented herein.

Claim Rejections Under 35 U.S.C. § 112

Claims 52-67 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 52 is rejected as indefinite for the use of the term "generally" in the phrase "a generally planar surface" as recited in claim 52.

The term "generally" is an accepted modifier allowing for some variation from the standard, e.g., *Lifetime Products, Inc. v. GSC Technology Corp.*, 321 F.Supp.2d 938, 942 n.2 (N.D.Ill.2004) (U.S. Pat. No. 5,535,552; U.S. Pat. No. 6,431,092; U.S. Pat. No. 6,530,331; U.S. Pat. No. 6,550,404, on polyethylene folding tables; 'generally' envisions some amount of deviation, see *Anchor Wall Sys. v. Rockwood Retaining Walls, Inc.*, 340 F.3d 1298, 1311 (Fed. Cir. 2003), (for example, generally parallel would envision some amount of deviation for exactly parallel).

In view of this definition, it is clear that the term "a generally planar surface" means that the surface facing the brew volume has a planar surface that may include some amount of deviation from a perfectly planar surface. Further, support for the phrase can be found at least at page 40, lines 9-32 and Figures 22 and 25 of the Application.

For at least these reasons, Applicants request that the rejection to claim 52, and claims 53-67 dependent therefrom, be withdrawn.

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Claim Rejections Under 35 U.S.C. § 103

Claims 1-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,634,281¹, and in view of U.S. Patent 7,032,503 to Cai. The claims have been amended to advance prosecution and without prejudice to pursuing the claims prior to this amendment in a continuation application. In particular, claim 1 has been amended to incorporate the feature of allowed claim 25 and claim 52 has been rewritten as an independent claim incorporating the features of original claim 1. In view of these amendments, it is believed that all of the pending claims are now in an allowable form.

Conclusion

For all of the reasons mentioned above, the Applicants respectfully request reconsideration and allowance of all pending claims. The Examiner is invited to contact the undersigned attorney to expedite prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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¹ It is noted that the U.S. patent number provided refers to a "Rotisserie Attachable Skewer Assembly." It is assumed that the Office Action intended to refer to U.S. Patent No. 6,968,775 to Burrows et al. as listed in the Notice of References Cited form accompanying the March 22, 2010 Office Action.

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